

Remarks

Reconsideration and allowance of this application, as amended, are respectfully requested.

The written description portion of the specification, claims 1-12, and the abstract of the disclosure have been amended. New claims 13-20 have been added. Claims 1-20 are now pending in the application. Claims 1 and 16 are independent. The objections and rejections are respectfully submitted to be obviated in view of the amendments and remarks presented herein. No new matter has been introduced through the foregoing amendments.

The specification has been editorially amended for conformance with 37 CFR § 1.77(c), for consistency, and to correct any informalities. The abstract has been editorially amended for conformance with 37 CFR § 1.72(b). The claims have been amended to overcome each ground of rejection under 35 U.S.C. § 112, second paragraph, and in general to more fully comply with U.S. practice. In view of the aforementioned claim amendments for compliance, new dependent claims 13-15 have been added to define features of the invention previously presented in the original claims. Entry of each of the amendments is respectfully requested.

New claims 16-20 have been added to further define the scope of protection sought for Applicant's invention. Entry of each of the amendments is respectfully requested.

35 U.S.C. § 102(b) - Koyama

Claims 1-7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Pub. No. 2001/0016142 of Koyama.

The rejection of claims 1-7 under § 102(b) based on Koyama is respectfully traversed. For at least the following reasons, the disclosure of Koyama does not anticipate Applicant's claimed invention.

Instant claim 1 defines a writing instrument having an information support element that includes information. The information support is "arranged in the reservoir such that the ink present in the reservoir initially hides the information on the information support, as a result of which said information becomes visible only on gradual use of the ink."

Koyama's writing instrument is structurally different from Applicant's claimed invention. Koyama discloses a free ink type writing instrument, including an ink tank part for storing ink, whereby an amount of the ink can be visually observed.

As shown in Koyama's Figure 2(b), for example, the ink tank part (20) is provided with a visible wall (20a) through which the ink is visible. However, contrary to the examiner's assertion, Koyama fails to disclose whatsoever, let alone in "paragraph 0004," an "information support arranged in the reservoir where the ink hides information and the information becomes visible as ink is used" (Office Action pages 3-4). Koyama fail to disclose any

feature comparable with the information support of the present invention. Koyama simply provides a wall part 20a with an excellent transparency so that the *ink* can be seen from the outside of the writing instrument.

Koyama fails to disclose that the ink in the reservoir is covering an information support, so that the information will not begin to be visible until the ink is used. The object of Koyama's invention is to make the *ink* visible (e.g., as to quantity), not to provide for the gradual revealing of information that is initially hidden by the ink. Koyama's visible wall part is simply not the same as Applicant's information support. Koyama's aforementioned wall part may have an excellent transparency (see Koyama paragraph [0048]). However, that alone does not meet Applicant's feature of an "information support being arranged in the reservoir such that the ink present in the reservoir initially hides the information on the information support, as a result of which said information becomes visible only on gradual use of the ink."

Since Koyama does not meet each feature of the claimed invention, Koyama does not anticipate the invention defined by Applicant's claim 1. Claims 2-7 are allowable because they depend, either directly or indirectly, from claim 1, and for the subject matter recited therein.

35 U.S.C. § 103(a) - Koyama and Smith

Claims 8-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Koyama in view of U.S. Patent No. 6,068,422 to Smith.

The rejection of claims 8-12 under § 103(a) based on Koyama and Smith is also respectfully traversed. Claim 1 is allowable over Koyama for all of the above-identified reasons. Each of claims 8-12 depends, either directly or indirectly, from claim 1. Regardless of what Smith may disclose with regard to an ecologically beneficial refill for a pen, the disclosure of Smith does not rectify any of the above-described deficiencies of Koyama.

More specifically, Smith discloses a refill for a writing element, and not a writing instrument itself. The refill consists of a recyclable paper or cardboard. There is a graduated scale for the identification of various levels of the ink as included in the refill. The package of the refill is also provided with a scale for the consumer to interpret (column 3, lines 28-43).

Even if Koyoma and Smith were combined as asserted by the examiner, one simply would not arrive at Applicant's claimed invention. Koyoma does not include any teaching of an information support included "*in the reservoir*." Smith does not describe any information that is revealed when the ink of the reservoir is consumed. The scale of the reservoir according to the refill of Smith is provided for a comparison with the scale of the package of the refill. Therefore, Smith's scale marks indicate the amount of

the *ink* remaining in the pen. In fact, to provide the indication, the aforementioned marks are distinctly colored from the ink (Smith column 1, lines 66-67). In contrast to Applicant's invention, the object of Smith's scale is simply to show the level of the *ink*, not to provide for the gradual revealing of information that is initially hidden by the ink.

Further, Smith's scale is not included *in the ink reservoir*, but instead is arranged on the wall of the reservoir. This is clearly pointed out by Smith at column 3, lines 49-53, where it is stated that the marks 24 of the scale are imprinted or otherwise designated *on the barrel 22*.

The present invention provides an information support inside the ink reservoir, and creates a dependency between the consumption of ink and the visibility of the information on the information support. Conversely, according to Smith, for example, the visibility of the exterior scale marks is independent of the filling level of the ink in the ink reservoir.

Accordingly, the combined disclosures of Koyama and Smith would not have rendered obvious the invention defined by any of Applicant's claims 8-12.


New claims 16-20 have been added to further define the scope of protection sought for Applicants' invention. New claims 16-20 are also allowable. Claim 16 defines an embodiment of the invention with a "housing having a transparent plastic material construction," and with an "information support [that is] arranged

in the reservoir such that the information (i) is initially obscured from view by the supply of ink and (ii) becomes increasingly visible as the supply of ink is consumed during use." Since independent claim 16 includes at least the features discussed above with respect to the rejection over Koyama, the reference neither anticipates nor would have rendered obvious the writing instrument defined by claim 16. Claims 17-20 each depend from claim 16, and therefore are similarly allowable.

In view of the foregoing, this application is now in condition for allowance. If the examiner believes that an interview might expedite prosecution, the examiner is invited to contact the undersigned.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By: 
Harvey B. Jacobson, Jr.
Reg. No. 20,851

400 Seventh Street, N. W.
Washington, D.C. 20004
Telephone: (202) 638-6666
Date: August 19, 2009